



1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
302 984 6000

www.potteranderson.com

Sarah E. Diluzio
Associate
sdiluzio@potteranderson.com
302 984-6279 Direct Phone
302 658-1192 Fax

May 27, 2008

VIA ELECTRONIC FILING

The Honorable Sue L. Robinson
U.S. District Court of Delaware
844 N. King Street
Lock Box 31
Wilmington, DE 19801

Re: Skinner v. E. I. du Pont de Nemours and Company, et al.
Civil Action No.: 07-384 (SLR)

Dear Judge Robinson:

I write on behalf of the defendants in this action, E. I. du Pont de Nemours and Company; E. I. du Pont de Nemours and Company, Plan Administrator; Pension and Retirement Plan; Total and Permanent Disability Income Plan; and Short Term Disability Plan (collectively "DuPont"), regarding DuPont's Motion for Summary Judgment, filed on April 30, 2008. (D.I. 10-13)

Pursuant to this Court's scheduling order and D. Del. LR 7.1.2(a)(2), the Plaintiff was required to respond to DuPont's Motion for Summary Judgment on or before May 19, 2008. (D.I. 9) Plaintiff has not responded as of the date of this submission. Plaintiff has neither requested an extension of time to file a response nor moved this Court for an extension. Because of Plaintiff's failure to respond within the Court's deadlines, Plaintiff has waived his right to respond to DuPont's Motion for Summary Judgment or controvert the facts in DuPont's Motion for Summary Judgment. See D. Del. LR 1.3(b) ("Failure to comply with the Rules of this Court relating to motions may result in the determination of the motion against the offending party."); Anchorage Assocs. v. Virgin Islands Bd. of Tax Review, 922 F.2d 168, 175-76 (3d Cir. 1990) (holding that "a local rule . . . can and should be construed as effecting a waiver of the opponent's right to controvert the facts asserted by the moving party in the motion for summary judgment or the supporting material accompanying it"); Reynolds v. Rick's Mushroom Serv., Inc., 246 F. Supp.2d 449, 453 (E.D. Pa. 2003) ("By failing to file a response within the time specified by the local rule, the nonmoving party waives the right to respond to or controvert the facts asserted in the summary judgment motion.") (internal quotation and citation omitted).

In any event, summary judgment in favor of DuPont is appropriate because, as set forth in DuPont's Opening Brief in Support of its Motion for Summary Judgment, no genuine issue of material fact exists, and the undisputed facts entitle DuPont to judgment as a matter of law. See

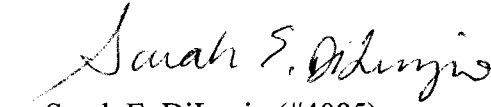
The Honorable Sue L. Robinson
May 27, 2008
Page 2

Fed. R. Civ. P. 56(e) (“If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.”); Anchorage Assocs., 922 F.2d at 175 (holding that, “[w]here the moving party does not have the burden of proof on the relevant issues,” summary judgment is “appropriate” when “the deficiencies in the opponent’s evidence designated in or in connection with the motion entitle the moving party to judgment as a matter of law;” also holding that hearing not required to enter judgment); Reynolds, 246 F. Supp.2d at 453 (entering summary judgment as to those counts where there was no genuine issue of material fact and moving party entitled to judgment as matter of law).

Accordingly, DuPont respectfully requests that this Court enter summary judgment in its favor, dismissing all counts of the Complaint. A Form of Order is attached for the convenience of the Court.

Counsel for DuPont are available at the Court’s convenience should Your Honor have any questions.

Respectfully submitted,


- Sarah E. DiLuzio (#4085)

Enclosure
cc: John Stull, Esq. (via CM/ECF Notification)

866326/20120-444

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DANNY M. SKINNER,)	
)	
Plaintiff,)	C.A. 07-384 SLR
)	
v.)	
)	
E.I. DU PONT DE NEMOURS AND COMPANY,)	
a Delaware corporation; E.I. DU PONT DE)	
NEMOURS AND COMPANY, Plan Administrator;)	
PENSION AND RETIREMENT PLAN; TOTAL)	
AND PERMANENT DISABILITY INCOME)	
PLAN; and SHORT TERM DISABILITY PLAN,)	
)	
Defendants.)	

ORDER

WHEREAS, the Court having considered Defendants' Motion for Summary Judgment and the arguments of Plaintiff and Defendants related thereto, and the Court finding no material issues of fact and that Defendants are entitled to judgment in its favor,

NOW, THEREFORE, Defendants' Motion is hereby **GRANTED** and judgment shall be entered in Defendants' favor on all claims of the Complaint.

The Honorable Sue L. Robinson
United States District Court Judge

Dated: _____